

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

HARDY WILSON MEMORIAL
HOSPITAL, et al.,

PLAINTIFFS

VERSUS

CIVIL ACTION NO. 5:08-cv4-DCB-JMR

KATHLEEN SEBELIUS, Secretary,
United States Department of Health
and Human Services, et al.,

DEFENDANTS

ORDER REMANDING CASE TO SECRETARY

Upon consideration of Plaintiffs' Motion for Entry of Judgment [docket entry no. 30], the opinion of the Court of Appeals for the Fifth Circuit in this cause, and the parties' notification to the Court that they agree that this matter should be remanded:

IT IS HEREBY ORDERED that Plaintiffs' Motion for Entry of Judgment [docket entry no. 30] is **GRANTED IN PART and DENIED IN PART.**

IT IS FURTHER ORDERED that this matter is **REMANDED** to the Secretary for the purpose of recalculating Plaintiffs' payments for cost reporting periods coinciding with fiscal years 2003, 2004, and 2005 consistent with the above-referenced opinion of the Court of Appeals for the Fifth Circuit, Hardy Wilson Mem'l Hosp. v. Sebelius, 616 F.3d 449 (5th Cir. 2009), and paying Plaintiffs, within 60 days of the date of this order, any additional monies due as a result of that recalculation plus interest calculated in accordance with 42 U.S.C. § 1395oo(f)(2) and any sums due under 42

C.F.R. § 405.378. The Secretary shall notify the Plaintiffs when she instructs the Plaintiffs' Medicare Administrative Contractor to perform the recalculations and payments outlined above.

IT IS FURTHER ORDERED that the parties shall notify this Court when the Secretary has paid the Plaintiffs pursuant to this Order, at which time this Court will enter a final judgment. At this time, this Court retains jurisdiction over this action.

IT IS FURTHERED ORDERED that all other pending motions are **MOOT**.

SO ORDERED, this the 5th day of April, 2011

s/ David Bramlette

UNITED STATES DISTRICT JUDGE